

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANTONIO R. AZPEITIA,

Defendant.

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8:04CR499

ORDER

Defendant Antonio R. Azpeitia (Azpeitia) appeared before the court on February 5, 2009, on Petition for Warrant or Summons for Offender Under Supervision (Report) (Filing No. 31). Azpeitia was represented by Anthony S. Troia and the United States was represented by Assistant U.S. Attorney Kimberly Bunjer. Through his counsel, Azpeitia waived his right to a probable cause hearing on the Report pursuant to Fed. R. Crim. P. 32.1(a)(1). I find that the Report alleges probable cause and that Azpeitia should be held to answer for a final dispositional hearing before Judge Laurie Smith Camp.

The government moved for detention. Through counsel, Azpeitia declined to present any evidence on the issue of detention and otherwise waived a detention hearing. Since it is Azpeitia's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds Azpeitia has failed to carry his burden and that Azpeitia should be detained pending a dispositional hearing before Judge Smith Camp.

IT IS ORDERED:

1. A final dispositional hearing will be held before Judge Laurie Smith Camp in Courtroom No. 2, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 1:00 p.m. on April 20, 2009.** Defendant must be present in person.

2 Defendant Antonio R. Azpeitia is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 5th day of February, 2009.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge